

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CHARLES W. SMITH, Individually and On Behalf )	
Of All Others Similarly Situated, )	C.A. No. 05-0354 (SLR)
)	Class Action
Plaintiff, )	
)	
v. )	
)	
XYBERNAUT CORPORATION, EDWARD G. )	
NEWMAN, STEVEN A. NEWMAN, THOMAS )	
D. DAVIS, BRUCE C. HAYDEN, and )	
GRANT THORNTON, LLP, )	
)	
Defendants. )	

**STIPULATION AND ORDER OF DISMISSAL**

IT IS HEREBY STIPULATED AND AGREED pursuant to Federal Rules of Civil Procedure 41(a)(1) and 23(e), subject to the approval of the Court, that this action is dismissed with without prejudice.

The undersigned hereby state that no compensation has passed from defendants to plaintiff Charles W. Smith or plaintiff's counsel and that no promise to give any such compensation has been made.

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& GODDESS, P.A.

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SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
U.S.D.J.